

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

WENGER S.A.

Plaintiff,

v.

Case No. 2:15-cv-01098-APG-NJK

FUZHOU HUNTER PRODUCT IMPORT  
AND EXPORT CO., LTD.; SWISSDIGITAL  
USA CO., LTD.; KRUMMHOLZ  
INTERNATIONAL INC.; SWISSGEAR  
SARL; and ZHIJIAN "HUNTER" LI,

Defendants.

**DECLARATION OF ZHIJIAN (HUNTER) LI IN SUPPORT OF DEFENDANTS'  
OPPOSITION TO PLAINTIFF'S *EX PARTE* MOTION FOR TEMPORARY  
RESTRAINING ORDER WITHOUT NOTICE AND FOR A PRELIMINARY  
INJUNCTION**

I, Zhijian (Hunter) Li, declare as follows:

- 1) I am the president and owner of Krummholz International Inc. ("Krummholz"),  
Swissdigital USA Co., Ltd. ("Swissdigital"), and Swissgear Sarl.
- 2) Krummholz is a Canadian company with an address at 7 Cortina Crt., Richmond Hill,  
Ontario, Canada L4B 3G8.
- 3) Swissdigital is a company organized and existing under the laws of Delaware with its  
principal place of business located at 7 Cortina Crt., Richmond Hill, Ontario, Canada L4B 3G8.  
Swissdigital also has a mailing address of 1177 6th Avenue of the Americas, Floor 5, New York,  
New York 10036.
- 4) Swissgear Sarl is a Swiss entity and does not do business in the U.S.
- 5) Krummholz is the parent company of Swissdigital.
- 6) Fuzhou Hunter Product Import and Export, Co., Ltd. ("Fuzhou Hunter") is a Chinese  
manufacturer that supplies goods to Swissdigital. Fuzhou Hunter has also supplied goods to  
Wenger S.A. ("Wenger") licensee Group III International Ltd. ("Group III"). I am not an officer,

1 director, shareholder nor do I have any ownership interest in Fuzhou Hunter and have not at any  
2 time during Fuzhou Hunter's relationship with Group III.

3 7) On January 29, 2015, Krummholz and Swissdigital filed a complaint in federal court for  
4 cancellation of trademark registrations and declaratory judgment of non-infringement of  
5 trademarks and copyright in the Western District of New York Buffalo Division.

6 8) The action sought cancellation of Wenger's federal registrations U.S. Reg. Nos. 4301579,  
7 4109108, 3291272, 3291271, 3291266, 3405840, 3820133, 4024369, 3769824, and 4230244 (the  
8 "Wenger marks") and U.S. Copyright Registration No. Va-1935912.

9 9) Swissdigital is the owner of U.S. Trademark Registration No. 4462487, which was issued  
10 on January 7, 2014. During the prosecution and opposition period for this mark in October 2013,  
11 Wenger never opposed the registration. Wenger initiated cancellation proceedings on this  
12 registration but the United States Patent and Trademark Office ("USPTO") suspended the  
13 proceedings when it was advised of the federal court action in the Western District of New York.  
14 Attached as **Exhibit A** is a true and correct copy of the registration printed from the USPTO  
15 website.

16 10) Swissdigital also owns U.S. Trademark Serial Nos. 86374172, 86374174, 86374175, and  
17 86374177. The USPTO suspended two pending marks pending the outcome of the federal court  
18 action in the Western District of New York.

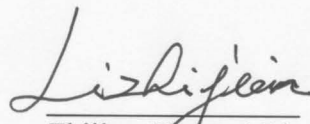
19 11) The validity of the Wenger marks have been challenged in regions and countries  
20 including: the European Union, Germany, Switzerland, Russia, Norway, Iceland, and China.

21 12) The Swiss Federal Institute of Intellectual Property refused to register "Swissgear,"  
22 asserting that the term belongs in the public domain because it suggests Swiss origin and  
23 consumers would be misled if the goods were not made in Switzerland. Attached as **Exhibit B** is  
24 a true and correct copy of the office action from the Swiss Federal Institute of Intellectual  
25 Property.

26 13) Recently, the district court in Germany made a preliminary finding that Wenger's  
27 "Swissgear" mark, marks incorporating the Swiss flag, and related marks are misleading and  
28 constitute unfair competition.

1 14) Switzerland, China, Norway, Russia, Iceland, and other countries have denied  
2 registration or cancelled registration of Wenger's "Swissgear" mark, marks incorporating the  
3 Swiss flag, and related marks. Cancellation proceedings have also been initiated in the European  
4 Union to cancel Wenger's "Swissgear" mark.

5 Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury under the laws of the  
6 United States of America that the foregoing is true and correct and that this declaration was  
7 executed on this June 19, 2015.

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11 Zhijian (Hunter) Li  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am an employee of McDonald Carano Wilson LLP, and that on the 19<sup>th</sup> day of June, 2015, a true and correct copy of the foregoing **DECLARATION OF ZHIJIAN (HUNTER) LI IN SUPPORT OF DEFENDANTS' OPPOSITION TO PLAINTIFF'S EX PARTE MOTION FOR TEMPORARY RESTRAINING ORDER WITHOUT NOTICE AND FOR A PRELIMINARY INJUNCTION** was electronically filed with the Clerk of the Court by using CM/ECF service which will provide copies to all counsel of record registered to receive CM/ECF notification in the captioned case.

/s/ Della Sampson

An Employee of McDonald Carano Wilson LLP